

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA**

**CM/ECF USERS' ADVISORY GROUP
MAY 19, 2000, MEETING
MINUTES**

A meeting of the CM/ECF Users' Advisory Group (UAG) was held on Friday, May 19, 2000. The meeting, which was held via videoteleconference, at the court's Alexandria, Norfolk and Richmond facilities, commenced at 12:00 Noon and concluded at 1:00 P.M. The following persons were in attendance at the meeting: Roy Lasris, Barry Spear, Frank Santoro, Charles Krumbein, William Parkinson, Jr., Peggy Grivetti, Chuck Miller, Steve Kopacki, Renee Mitchell-Paxton, Andrea Redmon, Dick Napoli and Bill Redden. Judge David Adams participated via telephone.

1. Bill Redden made some introductory remarks, including an update on the status of the Bankruptcy Reform Legislation and the "VBS.NewLove" worm computer virus.
2. He also introduced the court's new chief deputy clerk, Dick Napoli, and the court's new division manager for the Norfolk/Newport News Divisions, Steve Kopacki.
3. No changes to the minutes from the March 3, 2000, UAG meeting were suggested. Those minutes are accessible, for public viewing through a link, on the CM/ECF Users' Advisory Group Information Page, to the ECF System Information Page at the court's Internet web site.

Andrea Redmon and Bill Redden provided an update on several items of interest, as follows:

a. Bill Redden noted that the Judges held a meeting on May 15, 2000. At this meeting, Bill advised the Judges that the CM/ECF UAG had met twice via videoteleconference. Bill advised the UAG that the court remains committed to having cases administered by substantially paperless means and, at some point, to mandate ECF while allowing limited waivers to ensure effective access to the court. The court plans to move forward with CM/ECF with all "deliberate" speed. To meet his goal, a number of milestone requirements first must be met:

- CM/ECF server equipment must be delivered, installed (hardware and software) and tested. VAEB data maintained on CM/ECF server equipment located at the Administrative Office of the U.S. Courts (AO) must be transferred to the court's CM/ECF server equipment and tested.
- Conversion of NIBS case data to CM/ECF must be undertaken and completed through a conversion program that is being developed by the AO with assistance from the clerk's office's automation staff.

- CM/ECF Version 1 must be released by the AO, following internal AO testing. Once released, CM/ECF Version 1 must be tested by the clerk's office's automation staff and by other designated deputy clerks.
- Training materials being prepared by the AO and updated training materials being prepared by clerk's office staff must be completed and any required training made available to external and internal users.
- The manner in which NIBS data will be converted to and processed within CM/ECF must be considered. The time frame for the completion of this conversion process and the implementation of mandatory ECF, with limited waivers, also must be considered. For internal clerk's office case administration purposes, the number of post-NIBS data conversion cases and post-mandatory ECF CM-administered cases should be kept to a minimum. To meet these requirements:
 - The court must be satisfied that -- the filing of documents via the Internet is viable, access is dependable and highspeed broadband access is available at an affordable cost to external users.
 - Internally, the clerk's office will have sufficient staff and equipment to administer both CM and ECF cases and be able to meet ongoing training needs of external and internal users.
- An issue of concern involves the WebPACER fees that have been mandated by the Judicial Conference of the United States (Judicial Conference) at the rate of \$0.07 per page equivalent. This fee is applicable to all external users unless a waiver has been authorized by the court. (See Item 3 of the January 21, 2000, UAG meeting minutes for background information on this issue.) The impact of this fee on ECF usage is being assessed. Advance notification will be given to external users before the Judicial Conference fee is implemented.

Given the lead times required to meet the above noted requirements, it is not anticipated that the court will be in a posture to mandate ECF, with limited waivers, before the first quarter of Calendar Year 2001.

b. The CM/ECF server equipment has been delivered to the court. The court's automation staff is working with the AO to allow use of the new equipment by the end of July or early August. [Since the meeting, the AO has revised its target date to August 31, 2000. The clerk's office's

automation staff is working with the AO's Technology Training and Support Division (TTSD) to complete the implementation process by August 31.]

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c. The AO was not able to meet its target date of March 31, 2000, to release CM/ECF Version 1 to the prototype courts for testing and later implementation. The AO has indicated that Version 1 could be available for release to the prototype courts by mid-June for internal testing. [Since the meeting, the AO has advised that internal testing at the AO was completed on May 23, 2000, and was sent to TTSD on May 26, 2000, for installation testing. In addition, the AO's Independent Test Center has received Version 1 to begin the independent testing process. Tests will be conducted over a ten-week period with deputy clerks from designated courts, including VAEB, participating in the testing process. Six additional weeks of testing, which will include bug fixes, will be undertaken as well. If the schedule is implemented as planned, this testing process will be completed during the week of October 9, 2000. The AO is beginning the process of planning for the installation of Version 1 in the five prototype and three alpha bankruptcy courts.]

d. Automation staff has received some information from the AO on the NIBS data conversion program. It is anticipated that the AO will need to commit a significant amount of programming time to this effort. Although a mid-July 2000 target has been set by the AO for completion of this effort, it is not anticipated that this target will be met. Once the conversion program has been completed, court automation staff will test the program internally. If the program is received by the end of August 2000 from the AO, it is anticipated that internal testing and other data conversion preparation requirements would not permit data conversion from NIBS to CM/ECF until early Calendar Year 2001.

e. With court concurrence, the clerk established an Automated Control Center (ACC) Team within the clerk's office. The ACC Team was established in April 2000 and will be looking at a number of quality control issues in CM/ECF as well as working on several projects to make the implementation of CM/ECF more effective for external and internal users.

4. a. The on-line ECF reference materials are in the process of being reformatted to increase their ease of use. Several modules have been completed and will be placed on-line within the next week or so. [Since the meeting, a revised glossary of bankruptcy events and nine modules have been placed on-line: Introduction, Requirements, Document Preparation, Access, Creditor Matrix, Reports, Filing a Document - Motions/Applications, Filing a Claim and Batch Filings. The two modules under "Additional Elements for Trustees" will be reformatted as well. It is anticipated that the remaining modules will be completed by the end of June 2000.]

b. Plans are underway to make better use of the clerk's conference rooms at the Norfolk and Richmond Divisions to facilitate both external and internal ECF user training. Existing automation equipment and, as needed, additional automation equipment, will be available to support such training. Equipment needs for the Alexandria Division training room will be identified and secured.

c. Supreme Court of Virginia Rule 1:17 became effective on February 1, 2000. This rule permits any court in the Commonwealth to establish a system and procedures, which must be approved by that Court, for electronic filing of cases. The cases may be designated for electronic filing with the “consent of the parties and agreement of the clerk, as an electronically filed case.” Rule 1:17a. The Circuit Court of Fairfax County has established a pilot program for testing electronic filing. The court will enter a Consent Order for each case that will be administered by the court’s electronic filing system. The court has received a grant to begin such a program. The court, through the clerk of court, John T. Frey, is working with Sensei Corporation of Fairfax, Virginia, in developing this electronic filing system. Mr. Frey and members of his staff and two representatives from Sensei Corporation received a presentation of CM/ECF at the Alexandria Division on May 18. The presentation was well received by the attendees.

d. In addition to ongoing clerk’s office ECF training efforts for new external users, the following demonstrations and presentations were undertaken by clerk’s office staff since the March 3, 2000, UAG meeting: Electronic Data Systems (March 14); Alexandria panel trustees (March 15); Norfolk/Newport News panel trustees (March 15); Reed Smith Hazel & Thomas (at Baltimore, MD., March 29); visit by Virginia Western Bankruptcy Court staff (April 10-11); Fourth, Fifth and DC Circuits’ Joint Clerks’ Conference (at New Orleans, LA., April 26); teleconference with Missouri Western Bankruptcy Court (May 5); visit by California Northern Bankruptcy Court staff (May 8-9); visit by Fairfax County Circuit Court and Sensei Corporation staff (May 18).

5. The May 2000 edition of the *ECF Flier* contains articles on:

- . Elimination of Cover Sheet for List of Creditors in Cases Filed Electronically via ECF.
- . Trustee Certification of Review of Claims.
- . Public Review of Cases On-Line.
- . Service Requirements for Orders

6. Prototype courts’ statistics through April 30, 2000, were provided to the UAG members. A copy of Rule 1:17 of the Supreme Court of Virginia and a copy of the Electronic Filing Consent Order, Circuit Court of Fairfax County, VA., also were provided to the UAG members.

7. Two technical questions were raised at the meeting:

First, it was reported that in the morning hours, from about 6:00 A.M. to 8:00 A.M., external users who

attempted to hyperlink from the "Notice of Receipt of Filing" to the case docket or the

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document, would receive an ECF system error response. [This problem was reported to the AO and has been rectified.] It also was noted that users were having some difficulty in accessing the VAEB Internet web site during these morning hours. [The clerk's office's automation staff report that the response time may be too long for the end-users' systems due to the scripts being run by the all-records research companies on the court's web server during the noted morning hours each day. The court does not have any control over this type of usage. It is suggested that the end-users need to "stop" and "reload" and/or wait a few minutes before attempting to access the court web site. In addition, the "search" feature also may be down during the noted morning hours. This time period is used by the clerk's office to transfer data from each division of the clerk's office to the court's web server. The clerk's office is exploring options about a different period of the day to complete this required task. Information concerning these matters has been placed in the May 2000 edition of the *ECF Flier*.]

Second, it was noted that under current practice, there is a need to submit each order on a separate diskette. Inquiry was made whether some improvement could be made to this process. Clerk's office representatives at the meeting indicated that such options would be explored. [The ACC team and other designated clerk's office staff are working on this issue. It is anticipated that they will be providing a recommendation to the clerk by mid-July 2000.]

8. Several issues of interest to the UAG members were noted. First, concern had been expressed whether attorneys filing petitions and schedules electronically via ECF also should have to file the cover sheet for the list of creditors. When the list of creditors is filed electronically via the ECF system, the filing of a cover sheet would not be required. Second, the issue regarding whether the "Declaration of Division Venue" form required by LBR 1014-2 should continue to be filed was referred by the UAG to the court's Standing Committee on Local Bankruptcy Rules (LBR Standing Committee). The LBR Standing Committee considered the matter but was not able to arrive at a consensus determination. Third, the issue was raised by the UAG whether the LBR 2016-1(B) Disclosure Statement form notification requirement should remain in force as it pertains to notification to the U.S. Trustee. As set forth in the May 2000 edition of the *ECF Flier*, "[w]ith the approval of the Office of the U.S. Trustee, notice of the receipt of the filing of the LBR 2016-1(B) Disclosure Statement may be made upon the U.S. Trustee by e-mail. This procedure is effective immediately and applies only to cases filed via the ECF system." *ECF Flier*, May 2000, at first unnumbered page.

9. It was agreed that the next UAG meeting would be scheduled for July 18, 2000. The meeting will be held via videoteleconference, through Sprint, from 12:00 Noon to 1:00 P.M., at the court's Alexandria, Norfolk and Richmond facilities. UAG members will provide Bill Redden with proposed agenda items and technical questions, by close of business July 3, 2000. This will

facilitate a review by court representatives of any submitted agenda items and technical questions prior to the next scheduled UAG meeting. Bill Redden will send out an agenda for the next UAG meeting by close of business July 7, 2000.

The meeting adjourned at 1:00 P.M.

Respectfully Submitted,

William C. Redden